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EXAMINER

ALAM, UZMA

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/579,393

Applicant(s)

KRIKORIAN ET AL.

Examiner

UZMA ALAM

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

This action is responsive to the arguments filed November 29, 2007. Claims 1, 15, 16, 18, 19, 22-24, 28, 36-39, 41, 42 and 45-50 are amended. Claims 51 and 52 are new Claim 1-52 are pending. Claims 1-52 represent a system and method for a media playback system connected to a network.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 14, 15, 18, 21, 24, 24, 36-38, 41 and 44-52 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Mott et al. US Patent No. 6,170,060. Mott teaches the invention as claimed including a method for playing digital information on a mobile playback device (see abstract).

As per claims 1 and 24, Mott teaches the continuous media playback system and method controlled over a distributed communication system comprising a continuous play broadcast system comprising:

a distributed communications system [distribution network 240; column 4, lines 32-61]

at least one playback control device [212] that is located at a playback location [mobile device 212] that is connected to said distributed communications system and that includes an output device, memory that stores digital media files and a continuous play program, and a controller that outputs said digital media files to said audio output device according to said continuous play program wherein said media files include at least one of audio, video and announcements (Figures 8 and 10, column 17, lines 1-25; column 5, lines 15-30; column 9, lines 56-67; column 10, lines 1-10; column 5, lines 40-67);

a computer [client computer system 814] that is remotely located from said playback location and that communicated with said distributed communications system and accessing a web site via said distributed communications system using a computer and a web browser [browser software 219] (Figure 10; column 17, lines 20-40; column 9, lines 8-55); and

a web server [library server 280] that is connected to said distributed communications system and to a master library of said digital media files [library site 250], wherein said computer includes a user interface [column 9, lines 8-56; column 3, lines 30-45] that allows a playback manager to access said web server via said distributed communications system and via said website to modify said continuous play program for each playback control device (column 5, lines 4-67; column 8, lines 1-61)

As per claims 2 and 25, Mott teaches the continuous play broadcast system and method of claims 1 and 24 wherein said computer includes a browser module for accessing said web server and wherein said web server transmits executable files to said computer for creating said continuous play program (client browser software; column 9, lines 9-56).

As per claim 14 and 37, Mott teaches the continuous play broadcast system and method of claims 2 and 25 wherein said executable files allow said computer to access continuous play programs for a plurality of said playback control devices (group the playback control devices; column 8, line 22; column 12, lines 34-67).

As per claims 15 and 38, Mott teaches the continuous play broadcast system and method of claims 14 and 24 wherein said executable files allow said computer to group at least two of said playback control devices and to create a common continuous play program for said at least two of said playback control devices (information playback parameters, group the playback control devices; column 8, lines 1- 56; column 12, lines 34-67).

As per claims 18 and 41, Mott teaches the continuous play broadcast system and method of claims 1 and 24 wherein said web server stores a profile for said playback control device (client information 272; column 8, lines 16-30)

As per claims 21 and 44 Mott teaches the continuous play broadcast system and method of claims 2 and 24 wherein said master library further contains at least one of digital announcement files, video files, and text/graphics files (column 5, lines 40-67; column 6, lines 36-67).

As per claim 36, Mott teaches the continuous play broadcast method of claim 24 wherein said executable files allow said computer to select and arrange custom collections by allowing at

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least one of selecting a plurality of said digital media files from said master library and by sequencing said digital media files and randomly playing said digital media files (Mott; information playback parameters, group the playback control devices; column 8, lines 1- 56; column 12, lines 34-67).

As per claims 47 and 49, Mott teaches the continuous play broadcast system of claims 1 and 24 wherein the computer alters the play programs for a plurality of playback control devices (group the playback control devices; column 8, line 22; column 12, lines 34-67).

As per claims 48 and 50, Mott teaches the continuous play broadcast system of claim 1 wherein said computer groups at least two of said playback control devices and creates a common continuous play program for said at least two of said playback control devices (group the playback control devices; column 8, line 22; column 12, lines 34-67).

As per claims 51 and 52, Mott teaches the continuous play broadcast systems of claims 1 and 24 wherein each playback device includes a library of digital media files (Figure 10; local library 710).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically taught or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having

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ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 5-13, 16, 17, 19, 20, 22, 23, 28-35, 39, 40, 42, 43 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mott in view of Krikorian US Patent No. 5,726,909. Krikorian teaches the invention as claimed including a continuous play of background music system (see abstract).

As per claims 5 and 28, Mott teaches the continuous play broadcast system and method of claims 2 and 24. Mott does not teach wherein said executable files allow said computer to select and arrange custom playlists by selecting a plurality of said digital media files from said master library and by allowing at least one of sequencing said digital media files and randomly playing said digital media files.

Krikorian teaches wherein said executable files allow said computer to select and arrange custom playlists by selecting a plurality of said digital media files from said master library and by allowing at least one of sequencing said digital media files and randomly playing said digital media files (column 8, lines 40-56).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the customization of Krikorian with the files of Mott. A person of ordinary skill in the art would have been motivated to do this because the customization is a form of information playback parameters taught by Mott (column 8, lines 52-56).

As per claims 6 and 29, Mott teaches the continuous play broadcast system of claims 2 and 25. Mott does not teach wherein said executable files allow said computer to select a

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plurality of predetermined collections of said digital media files, to allocate percentages of time for playing said collections and to create a composite collection that randomly selects said digital media files from said collections based on said allocated percentages. Krikorian teaches wherein said executable files allow said computer to select a plurality of predetermined collections of said digital media files, to allocate percentages of time for playing said collections and to create a composite collection that randomly selects said digital media files from said collections based on said allocated percentages (column5, lines 33-43).

See motivation for claim 5.

As per claims 7 and 30, Mott teaches the continuous play broadcast system of claims 6 and 29. Mott does not teach wherein said executable files allow said computer to select at least one of said digital media files within said predetermined collections and to adjust the frequency at which said at least one of said digital media files is played in said composite collection. Krikorian teaches wherein said executable files allow said computer to select at least one of said digital media files within said predetermined collections and to adjust the frequency at which said at least one of said digital media files is played in said composite collection (column 5, lines 44-50).

See motivation for claim 5.

As per claims 8 and 31, Mott teaches the continuous play broadcast system and method of claims 6 and 29. Mott does not teach wherein said executable files allow said computer to select at least one of said digital media files within said predetermined collections and to prevent



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said at least one of said digital media files from playing in said composite collection. Krikorian teaches wherein said executable files allow said computer to select at least one of said digital media files within said predetermined collections and to prevent said at least one of said digital media files from playing in said composite collection (column 5, lines 51-67).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the customization of Krikorian with the files of Mott. A person of ordinary skill in the art would have been motivated to do this because the customization is a form of information playback parameters taught by Mott (column 8, lines 52-56).

See motivation for claim 5.

As per claims 9 and 32, Mott teaches the continuous play broadcast system and method of claims 6 and 29. Mott does not teach wherein said executable files allow said computer to select at least one of said digital media files within said predetermined collections and to prevent said at least one of said digital media files from playing during preselected times in said composite collection. Krikorian teaches wherein said executable files allow said computer to select at least one of said digital media files within said predetermined collections and to prevent said at least one of said digital media files from playing during preselected times in said composite collection (column 5, line 51-67).

See motivation for claim 5.

As per claims 10 and 33, Mott teaches the continuous play broadcast system and method of claims 6 and 29. Mott does not teach wherein said executable files allow said computer to

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assign said predetermined collections to a time-based schedule that forms part of said continuous play program. Krikorian teaches wherein said executable files allow said computer to assign said predetermined collections to a time-based schedule that forms part of said continuous play program (column 6, lines 36-64).

See motivation for claim 5.

As per claims 11 and 34, Mott teaches the continuous play broadcast system and method of claims 10 and 33. Mott does not teach wherein said executable files allow said computer to assign said composite collection to said time-based schedule. Krikorian teaches wherein said executable files allow said computer to assign said composite collection to said time-based schedule (column 6, lines 36-64).

See motivation for claim 5.

As per claims 12 and 35, Mott teaches the continuous play broadcast system and method of claims 10 and 33. Mott does not teach wherein a smallest time unit provided in said time-based schedule can be varied. Krikorian teaches wherein a smallest time unit provided in said time-based schedule can be varied (column 6, lines 36-64).

See motivation for claim 5.

As per claims 13 and 36, Mott and Krikorian teach the continuous play broadcast system and method of claims 12 and 24 wherein said executable files allow said computer to select and arrange custom collections by allowing at least one of selecting a plurality of said digital media files from said master library and by sequencing said digital media files and randomly playing

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said digital media files (Mott; information playback parameters, group the playback control devices; column 8, lines 1- 56; column 12, lines 34-67).

See motivation for claim 5.

As per claims 16 and 39, Mott teaches the continuous play broadcast system and method of claims 2 and 25. Mott does not teach wherein said executable files allow said computer to display a digital media file that is currently being played by said playback control device and at least one digital media file that follows said digital media file that is currently being played. Krikorian teaches wherein said executable files allow said computer to display a digital media file that is currently being played by said playback control device and at least one digital media file that follows said digital media file that is currently being played (column 5, lines 51-67).

See motivation for claim 5.

As per claims 17 and 40, Mott teaches the continuous play broadcast system and method of claims 16 and 24. Mott does not teach wherein said web server delivers at least one digital media file to said computer as a streaming media file for output to said output device connected to said computer. Krikorian teaches wherein said web server delivers at least one digital media file to said computer as a streaming media file for output to said output device connected to said computer (column 4, lines 27-40).

See motivation for claim 5.

As per claims 19 and 42, Mott teaches the continuous play broadcast system and

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method of claims 2 and 25. Mott does not teach wherein said executable files allow said computer to select business hours to operate said playback control device. Krikorian teaches wherein said executable files allow said computer to select business hours to operate said playback control device (column 6, lines 65-67; column 7, lines 1-6).

See motivation for claim 5.

As per claim 22 and 45, Mott teaches the continuous play broadcast system and method of claims 21 and 25. Mott does not teach wherein said executable files allow said computer to schedule at least one of said digital announcement files in said continuous play broadcast of said playback control device. Krikorian teaches wherein said executable files allow said computer to schedule at least one of said digital announcement files in said continuous play broadcast of said playback control device (column 6, lines 16-67; Figure 4).

See motivation for claim 5.

As per claims 23 and 46, Mott teaches the continuous play broadcast system and method of claims 22 and 25. Mott does not teach wherein said executable files allow said computer to schedule at least one of said digital announcement files and said video files in said continuous play broadcast of said playback control device on a recurring basis. Krikorian teaches wherein said executable files allow said computer to schedule at least one of said digital announcement files and said video files in said continuous play broadcast of said playback control device on a recurring basis (column 6, lines 58-64).

See motivation for claim 5.

Claims 3 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mott in view of Leeke et al. US Patent No. 6,587,127. Leeke teaches the invention substantially as claimed including a content player with user profile.

Mott teaches the continuous play broadcast system and method of claims 2 and 25. Mott does not teach wherein said executable files are at least one of Active-x components, Java Applets and Java Script. Leeke teaches Java Applet files. See column 4, lines 50-67. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the Java Applets of Leeke with the executable files of Mott. A person of ordinary skill in the art would have been motivated to do this to accommodate a variety of browsers.

### *Response to Arguments*

2. Applicant's arguments with respect to claims 1-52 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to UZMA ALAM whose telephone number is (571)272-3995. The examiner can normally be reached on Mondays and Tuesdays 5:30 - 2.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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February 19, 2008

  
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